

REMARKS

Specification

The Office has objected to the Specification, at paragraph 2 of the Office Action, as failing to provide proper antecedent basis for claims 43 and 44. Applicants have amended the Specification at paragraph 0020 of the Specification. No new matter has been added. Consequently, Applicants respectfully request that the objection be withdrawn.

Objections

The Office has objected to claims 2 and 23-25, at paragraph 3 of the Office Action, as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicants have amended claims 2 and 23-25 and respectfully request that the objection be withdrawn.

35 U.S.C. §112 Second Paragraph Rejections

The Office has rejected claims 3, 6, 16-28, 43 and 44, at paragraphs 4-5 of the Office Action, under 35 U.S.C. §112 Second Paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

Applicants have amended claims 3 and 6 to provide proper antecedent basis for each element. Applicants have amended claim 16 to recite the structure of the system claimed. In addition, Applicants direct the Examiner to paragraph 0015 of the Specification, which describes structure associated with the system. Claims 17-21 depend from claim 16. Further, Applicants have amended claims 17-21 and 26-28, which recite a structure of the system claimed. Additionally, claim 43 recites “a computer memory,” Claim 44 depends from claim 43. Claim 44 recites “the computer memory” and has antecedent basis from claim 43.

Consequently, Applicants respectfully request that the 35 U.S.C. §112 Second Paragraph rejections be withdrawn.

35 U.S.C. §101 Rejections

The Office has rejected claims 1-10 and 16-28, under 35 U.S.C. §101, at paragraphs 6-7 of the Office Action, as directed to non-statutory subject matter. Applicants have amended claim

1 to more particularly point out the subject matter claimed. Applicants submit that claim 1 satisfies the requirements of 35 U.S.C. §101. Consequently, Applicants respectfully request withdrawal of the 35 U.S.C. §101 rejection of claim 1, and of claims 2-10, which depend from claim 1.

Applicants have amended claims 2 and 23-25 to more particularly point out the subject matter claimed. Applicants submit that claims 2 and 23-25 satisfy the requirements of 35 U.S.C. §101. Consequently, Applicants respectfully request withdrawal of the 35 U.S.C. §101 rejection of claims 2 and 23-25.

Applicants have amended claim 16 to more particularly point out the subject matter claimed. Applicants submit that claim 16 satisfies the requirements of 35 U.S.C. §101. Consequently, Applicants respectfully request withdrawal of the 35 U.S.C. §101 rejection of claim 16, and of claims 17-28, which depend from claim 16.

Claims 1-2 and 4-5 are Allowable

The Office has rejected claims 1-2 and 4-5, at paragraphs 8-9 of the Office Action, under 35 U.S.C. §102(e), as being anticipated by U.S. Patent No. 7,213,005 (“Mourad”). Applicants respectfully traverse the rejections.

The cited portions of Mourad do not disclose the specific combination of claim 1. For example, the cited portions of Mourad do not do not disclose memory to store a device profile table accessible by a content broker module, the device profile table including a list of media formats that can be played by a subscriber media device, as in claim 1. In contrast to claim 1, Mourad discloses that content providers can tailor a default metadata template to identify types of data, such as composer, producer, sidemen, track length, that the content provider wants to provide to end-users. *See* Mourad, col. 61, lines 23-32. Further, Mourad discloses that digital watermarking embedded in the content at the end-user device identifies the content purchaser and end-user device. *See* Mourad, col. 11, lines 14-18. Additionally, Mourad discloses architecture designed so that the functions in end user devices can be implemented on a wide variety of devices. *See* Mourad, col. 11 line 66- col. 12, line 1. The cited portions of Mourad do not disclose memory to store a device profile table accessible by a content broker module, the device profile table including a list of media formats that can be played by a subscriber media

device, as in claim 1. Therefore, the cited portions of Mourad do not disclose each and every element of claim 1. Hence, claim 1 is allowable.

Claims 2 and 4-5 depend from claim 1, which Applicants have shown to be allowable. Hence, claims 2 and 4-5 are allowable, at least by virtue of their dependence from claim 1.

Claims 16-28 are Allowable

The Office has rejected claims 16-28, at paragraphs 10 of the Office Action, under 35 U.S.C. §102(e), as being anticipated by U.S. Patent No. 7,203,966 (“Abburi”). Applicants respectfully traverse the rejections.

The cited portions of Abburi do not disclose the specific combination of claim 16. For example, the cited portions of Abburi do not disclose a memory to store device profile information, the memory further to provide the device profile information to the content broker module, as in claim 16. Instead, Abburi discloses a content-key database 20 that stores a decryption key, key ID, and content ID. *See* Abburi, col. 9, lines 6-9. Additionally, Abburi discloses a general purpose computer including an external storage device 162 connected to a SCSI bus 156. *See* Abburi, Fig. 12, and col. 8, lines 1-3. The cited portions of Abburi do not disclose a memory to store device profile information, the memory further to provide the device profile information to the content broker module, as in claim 16. Therefore, the cited portions of Abburi do not disclose or suggest each and every element of claim 16. Hence, claim 16 is allowable.

Claims 17-28 depend from claim 16. Therefore, claims 17-28 are allowable, at least by virtue of their dependence from claim 16.

Further, the dependent claims recite additional features that are not disclosed by the cited portions of Abburi. For example, the cited portions of Abburi do not disclose that device profile information (stored in memory) includes a first supported media format of a media device, as in claim 21. Instead, Abburi discloses a digital rights management system including a black box 30 that works in conjunction with a license evaluator 36 to decrypt and encrypt certain information as part of a license evaluation function. *See* Abburi col. 17, lines 25-29. Abburi further discloses that prior to issuing a license 16, the license server 24 checks the version number of the

black box 30 to determine whether such black box 30 is relatively current. *See* Abburi col. 21, lines 54-57. The cited portions of Abburi do not disclose that device profile information (stored in memory) includes a first supported media format of a media device, as in claim 21. For this additional reason, claim 21 is allowable.

Claims 3 and 6-7 are Allowable

The Office has rejected claims 3, 6 and 7, at paragraphs 11-13 of the Office Action, under 35 U.S.C. §103(a), as being unpatentable over Mourad, in view of U.S. Patent No. 7,290,288 (“Gregg”). Applicants respectfully traverse the rejections.

As explained above, the cited portions of Mourad do not disclose each and every element of claim 1, from which claims 3, 6, and 7 depend. The cited portions of Gregg do not disclose or suggest the elements of claim 1 that are not disclosed by the cited portions of Mourad. For example, the cited portions of Gregg do not disclose or suggest memory to store a device profile table accessible by a content broker module, the device profile table including a list of media formats that can be played by a subscriber media device, as in claim 1. In contrast to claim 1, Gregg discloses storing a digital identification associated with at least one client computer device, and data associated with the protected computer resources in at least one database associated with the authentication server; authenticating, by the authentication server, the digital identification forwarded by at least one access server; authorizing, by the authentication server, the at least one client computer device to receive at least a portion of the protected computer resources requested by the at least one client computer device, based on the stored data associated with the requested protected computer resources; and permitting access, by the authentication server, to the portion of the protected computer resources upon successfully authenticating the digital identification and upon successfully authorizing the at least once client computer device. *See* Gregg, Abstract. The cited portions of Gregg do not disclose or suggest memory to store a device profile table accessible by a content broker module, the device profile table including a list of media formats that can be played by a subscriber media device, as in claim 1. Therefore, the cited portions of Mourad and Gregg, separately or in combination, fail to disclose or suggest at least one element of claim 1, or of claims 3, 6, and 7, which depend from claim 1. Therefore, claims 3, 6, and 7 are allowable.

Claims 8-9 are Allowable

The Office has rejected claims 8-9, at paragraph 14 of the Office Action, under 35 U.S.C. §103(a), as being unpatentable over Abburi, in view of U.S. Patent No. 5,926,624 (“Katz”). Applicants respectfully traverse the rejections.

The cited portions of Abburi do not disclose or suggest each and every element of claim 8. For example, the cited portions of Abburi do not disclose or suggest providing user device characteristics of a user device, including a list of media formats compatible with the user device, to the at least one of the content provider websites, as in claim 8. Instead, Abburi discloses registering devices to participate in a roaming service and acquiring a license to access content. *See* Abburi, col. 3, lines 63-67, and col. 61, lines 4-5 and 15-20. The cited portions of Abburi do not disclose or suggest providing user device characteristics of a user device, including a list of media formats compatible with the user device, to the at least one of the content provider websites, as in claim 8. Further, the cited portions of Katz do not disclose or suggest this element of claim 8. Instead, Katz discloses a mobile playback device 212 that is a minimally configured, low-cost, standalone mobile unit for receiving and storing digital information files or programs as downloaded by a library server and client computer system. *See* Katz, col. 5, lines 21-32. The cited portions of Katz do not disclose or suggest providing user device characteristics of a user device, including a list of media formats compatible with the user device, to the at least one of the content provider websites, as in claim 8. Therefore, the cited portions of Abburi and Katz, separately or in combination, fail to disclose or suggest each and every element of claim 8. Hence claim 8 is allowable. Claim 9 depends from claim 8, and is therefore allowable, at least by virtue of its dependence from claim 8.

Claim 10 is Allowable

The Office has rejected claim 10, at paragraph 15 of the Office Action, under 35 U.S.C. §103(a), as being unpatentable over Abburi in view of Katz, and further in view of U.S. Patent Pub. No. 2003/0083986 (“Kobayashi”). Applicants respectfully traverse the rejections.

As explained above, the cited portions of Abburi and Katz, separately or in combination, fail to disclose or suggest each and every element of claim 8, from which claim 10 depends. The cited portions of Kobayahsi do not disclose or suggest the elements of claim 8 that are not

disclosed or suggested by the cited portions of Abburi and Katz. For example, the cited portions of Kobayahsi do not disclose or suggest providing user device characteristics so that at least one content provider website may determine a media format for delivery, as in claim 8. Instead, Kobayashi discloses a method of credit guarantee in electronic commerce transactions through an interconnected network. *See* Kobayahsi, Abstract. The cited portions of Kobayashi do not disclose or suggest providing user device characteristics so that at least one content provider website may determine a media format for delivery, as in claim 8. Therefore, the cited portions of Abburi, Katz, and Kobayahsi, separately or in combination, fail to disclose or suggest each and every element of claim 8, or of claim 10, which depends from claim 8. Hence, claim 10 is allowable.

Claims 42-49 are Allowable

The Office has rejected claims 42-49, at paragraph 16 of the Office Action, under 35 U.S.C. §103(a), as being unpatentable over U.S. Patent No. 7,010,808 (“Leung”), and further in view of Gregg. Applicants respectfully traverse the rejections.

The cited portions of Leung do not disclose or suggest providing device characteristics of a subscriber media device, including a list of media formats supported by a subscriber media device, to a remote content provider site, as in claim 42. Instead, Leung discloses digital content rendered on a device by transferring the content to the device and obtaining a digital license corresponding to the content. *See* Leung, Abstract. Leung further discloses that the content is encrypted and decryptable according to a content key, and the sub-license includes the content key encrypted and decryptable according to a secret that is a function of the content ID, which may be any appropriate identifier. *See* Leung, Abstract, col. 37, lines 51-54 and col. 38, lines 16-18. The cited portions of Leung do not disclose providing device characteristics of a subscriber media device, including a list of media formats supported by a subscriber media device, to a remote content provider site, as in claim 42. Further, the cited portions of Gregg do not disclose or suggest this element of claim 42. Gregg discloses storing a digital identification associated with at least one client computer device, and data associated with the protected computer resources in at least one database associated with the authentication server; authenticating, by the authentication server, the digital identification forwarded by at least one access server; authorizing, by the authentication server, the at least one client computer device to receive at

least a portion of the protected computer resources requested by the at least one client computer device, based on the stored data associated with the requested protected computer resources; and permitting access, by the authentication server, to the portion of the protected computer resources upon successfully authenticating the digital identification and upon successfully authorizing the at least once client computer device. *See* Gregg, Abstract. The cited portions of Gregg do not disclose or suggest providing device characteristics of a subscriber media device, including a list of media formats supported by a subscriber media device, to a remote content provider site, as in claim 42. Therefore, the cited portions of Leung and Greg, separately or in combination, fail to disclose each and every element of claim 42. Hence, claim 42 is allowable.

Claims 43-49 depend from claim 42, which Applicants have shown to be allowable. Therefore, claims 43-49 are also allowable, at least by virtue of their dependence from claim 42.

Further, the dependent claims include additional features that are not disclosed or suggested by the cited references. For example, the cited portions of Gregg do not disclose that the subscriber device is a set top box, a DVD player, or an MP3 player, as in claim 47. Further, the cited portions of Leung do not disclose or suggest this element of claim 47. For this additional reason, claim 47 is allowable.

Claims 50-52 are Allowable

Applicants have added new claims 50-52, which are supported by the Specification. Claims 50 and 51 depend from claim 16, which Applicants have shown to be allowable. Therefore, claims 50 and 51 are allowable. Claim 52 depends from claim 1, which Applicants have shown to be allowable. Therefore, claim 52 is allowable.

CONCLUSION

Applicants have pointed out specific features of the claims not disclosed, suggested, or rendered obvious by the cited portions of the references as applied in the Office Action. Accordingly, Applicants respectfully request reconsideration and withdrawal of each of the objections and rejections, as well as an indication of the allowability of each of the pending claims.

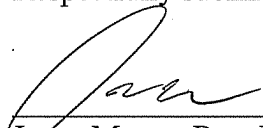
Any changes to the claims in this response, which have not been specifically noted to overcome a rejection based upon the cited art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

The Examiner is invited to contact the undersigned attorney at the telephone number listed below if such a call would in any way facilitate allowance of this application.

The Commissioner is hereby authorized to charge any fees, which may be required, or credit any overpayment, to Deposit Account Number 50-2469.

Respectfully submitted,

July 30, 2008
Date



Jason Moore, Reg. No. 52,046

Attorney for Applicants

TOLER LAW GROUP, INTELLECTUAL PROPERTIES

8500 Bluffstone Cove, Suite A201

Austin, Texas 78759

(512) 327-5515 (phone)

(512) 327-5575 (fax)